

THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Attorney Docket No. 13935US02)

In the Application of:	)	
	)	
Lee, et al.	)	<b>Electronically Filed</b>
	)	
Serial No. 10/629,207	)	
	)	
Filed: 7/29/2003	)	
	)	
Examiner: Rahman	)	
	)	
Group Art Unit: 2116	)	
	)	
Conf. No. 5674	)	

**Pre-appeal Brief**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This correspondence is in response to the final office  
action of 10/2/2009.

## **REMARKS**

Claims 34-43, 45, 46, and 49-60 are presently pending and stand rejected. Claims 1-33, 44, 47, and 48 are cancelled without prejudice. Claims 34-43 and 45-48 were rejected. Assignee respectfully requests pre-appeal review of certain rejections.

Claim 34 recites, among other limitations, "wherein selecting the power state further comprises: configuring a PHY layer to restart and negotiate at a predetermined speed; and increment advertised capabilities until link presence is detected".

The Office Action indicates that Mills teaches "330 moves to 310 where auto-negotiation is performed at a predetermined speed; lines 15-35 of column 4, line 65 of column 4 through line 22 of column 5; lines 30-40 of column 14). Assignee respectfully traverses the rejection and notes that Mills does not teach "negotiate at a *predetermined* speed". Accordingly, Assignee respectfully requests that the rejection to claim 34 and 49 be reversed.

## **Conclusion**

For at least the foregoing reasons, it is respectfully submitted that each of the pending claims are allowable, thereby placing the application in a condition for allowance. Accordingly, a notice of allowance is respectfully requested.

It is believed that all monies for any actions requested in this correspondence are submitted with this correspondence. To the extent that additional monies are required for any actions requested in this correspondence,

Commissioner is authorized to charge deposit account 13-0017.

Respectfully Submitted,



Date: June 4, 2009

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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) <b>13935US02</b>	
I hereby certify that this correspondence is being electronically filed with United States Patent and Trademark Office  on <u>March 2, 2010</u>  Signature <u>/Mirut P. Dalal/</u>  Typed or printed Name <u>Mirut P. Dalal</u>		Application Number <b>10/629,207</b>	Filed <b>7/29/2003</b>
		First Named Inventor Lee	
		Art Unit 2116	Examiner Rahman
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s).          Note: No more than five (5) pages may be provided.</p>			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>44,052</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<div style="text-align: center;"> <u>/Mirut P. Dalal/</u>          Signature       </div> <div style="text-align: center;"> <u>Mirut P. Dalal</u>          Typed or printed name       </div> <div style="text-align: center;"> <u>(312) 775-8063</u>          Telephone number       </div> <div style="text-align: center;"> <u>03/2/2010</u>          Date       </div>	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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